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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE, Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

IN THE MATTER OF THE FORMAL
COMPLAINT OF TALKING ROCK
RANCH ASSOCIATION FOR
COMMUNITY PRESERVATION
CONCERNING BILLING DISPUTE WITH
ICR WATER USERS ASSOCIATION, INC.,
A PUBLIC SERVICE CORPORATION
LOCATED IN YAVAPAI COUNTY,
ARIZONA.

DOCKET NO: W-02824A-16-0409

ICR WATER USERS ASSOCIATION, INC.'S
MOTION TO DISMISS OR IN THE
ALTERNATIVE, MOTION TO STAY

Pursuant to the provision of A.A.C. R14-3-101(a), and Rules 12(b)(1) and (6) and 7.1 of the Arizona Rules of Civil Procedure, the ICR Water Users Association, Inc. ("ICRWUA") hereby respectfully moves that the complaint filed by Talking Rock Ranch Association For Community Preservation ("Association") be dismissed for lack of subject matter jurisdiction and/or failure to state a claim upon which relief can be granted, or in the alternative, stayed pending resolution of Yavapai County Superior Court action P1300CV201600805 captioned ICR Water Users Association vs. Talking Rock Ranch Association For Community Preservation, a copy of which is attached hereto as Exhibit 1.

Introduction

Both the Association and ICRWUA are non-profit corporations. ICRWUA is entirely customer owned and operated. In contrast, the Association's officers and directors are representatives of the Talking Rock Ranch developer. Upon information and belief, not one of the Association's

1 directors or officers actually resides within the Talking Rock Ranch.

2 The Association contractually agreed to pay the Arizona Corporation Commission
3 ("Commission") approved rates for all water delivered to the Association. This contract has
4 undisputedly been breached by the Association which underpaid \$54,172.02 for the water it received
5 between January 2011 and January 2016. The underpayment initially was due to a billing error. The
6 Association was notified of an underpayment issue in February 2016. Following a series of
7 discussions seeking to resolve the matter, ICRWUA submitted a July 1, 2016 billing for the total
8 amount due. A copy of the July 1, 2016 billing statement is attached to the superior court complaint as
9 Exhibit A. Six days later the Association filed an informal complaint with the Commission.
10 Commission Staff looked into the matter for three months and never suggested to ICRWUA that the
11 amount billed was not due and owing. Efforts to resolve the matter continued until October 14, 2016
12 when the Association rejected ICRWUA's offer to accept payment over a six (6) year period.

13 In order to enforce its contractual rights and secure full payment for the water used by the
14 Association, ICRWUA filed suit in Yavapai County Superior Court on October 28, 2016. ICRWUA
15 delayed serving the complaint and provided the Association another opportunity to resolve the matter.
16 The Association, however, filed its complaint with the Commission seeking "a substantial reduction or
17 elimination" of the charges it owes for the water it received. There is no legal basis supporting the
18 relief requested. For the reasons set forth below the complaint must be dismissed.

19 **Motion to Dismiss**

20 The Association's complaint must be dismissed because it intrudes upon the exclusive
21 jurisdiction of the superior court and fails to state a claim for which relief can be granted.

22 **A. Lack of Subject Matter Jurisdiction**

23 The Association's complaint must be dismissed for lack of jurisdiction. Disputes involving
24 whether a contract is enforceable or breached, even when one party is a utility, is left to the exclusive
25 jurisdiction of Arizona courts. See Ariz. Const. art. 6, § 1; General Cable Corp. v. Citizens Utilities

1 Co., 27 Ariz. App. 381, 386, 555 P.2d 350, 355 (1976) ("We agree with the trial court that the
2 construction and interpretation to be given to legal rights under a contract reside solely with the courts
3"); see, e.g., Nelson v. Rice, 198 Ariz. 563, 567, ¶ 13, 12 P.3d 238, 242 (App. 2000) (noting that
4 the trial court has to determine whether a contract is unconscionable as a matter of law). In fact, more
5 than fifty years ago our supreme court stated that: "No judicial power is vested in or can be exercised
6 by the corporation commission unless that power is expressly granted by the constitution." Trico Elec.
7 Coop. v. Ralston, 67 Ariz. 358, 363 (1948). And although the Commission has broad jurisdiction over
8 "public service corporations" pursuant to Article 15 of the Arizona Constitution, the provision does not
9 give the Commission jurisdiction to entertain and resolve contract claims. See Trico, 67 Ariz. at 362-
10 65 (comparing Arizona Constitution Article 15 to Article 6, and concluding that the Constitution
11 vested no jurisdiction in the Commission to construe contracts and determine their validity); see, e.g.,
12 Ariz. Corp. Comm'n v. Tucson Gas, Elec. Light & Power Co., 67 Ariz. 12 (1948).¹

13 ICRWUA's filed rates and charges are part of the contract between it and the Association. See
14 U.S. Airways, Inc. v. Owest Corp., 238 Ariz. 413, 416 ¶11 (App. 2015) *affirm'd* with portion
15 depublished 2016 Ariz. Lexis (2016) (state public utility tariffs are binding on all customers); Sommer
16 v. Mountain States Tel. & Tel. Co., 21 Ariz. App. 385, 388 (1974) (the subject tariff became part of the
17 contract between Mountain Bell and plaintiff).

18 There is no dispute regarding the applicable rates and charges. The enforcement of those
19 charges is a matter of contract between ICRWUA and the Association and is the fundamental issue
20 involved in this case, as well as in the superior court action filed by ICRWUA. Therefore, the
21 Commission lacks subject matter jurisdiction and the matter must be dismissed pursuant to Rule
22 12(b)(1) of the Arizona Rules of Civil Procedure.

23
24 ¹ The foregoing paragraph is taken from an unpublished memorandum decision (Johnson Utils., LLC v. Swing
25 First Golf, LLC, 2015 Ariz. App. LEXIS 167(2015)). ICRWUA relies on the authorities cited, not the
memorandum decision.

1 B. Failure to State A Claim For Which Relief May Be Granted

2 The complaint must also be dismissed for failure to state a claim for which relief may be
3 granted pursuant to Rule 12(b)(6) of the Arizona Rules of Civil Procedure. Motions to dismiss for
4 failure to state a claim assume allegations in the complaint are true and attack the legal sufficiency of
5 the complaint. *Dressler v. Morrison*, 212 Ariz. 279, 280 ¶2 (2006); *Mohave Disposal v. City of*
6 *Kingman*, 186 Ariz. 343, 346 (1996). Dismissal is appropriate where the plaintiff is not entitled to
7 relief under any statement of the facts which is susceptible of proof under the claim as stated in the
8 complaint. *Id.*

9 In this instance, the Association asserts "the alleged billing error actually began in early 2011
10 when the ICRWUA changed internal billing software, causing an incorrect multiplier to be applied to
11 the Association's water rate." "On July 1, 2016, the Association received a formal invoice from
12 ICRWUA for account number 9701001, alleging an outstanding balance of \$54,172.02." The
13 invoice, which is attached to the complaint, details the meter reading, the amount originally billed and
14 the amount of the underbilling on a month by month basis and demonstrates that \$54,172.02 was in
15 fact under-billed. "ICRWUA continues to insist that the Association pay the entire amount."

16 The Association's complaint acknowledges that A.A.C. R14-2-409.D.1 states "[e]ach customer
17 shall be billed under the applicable tariff indicated in the customer's application for service." By its
18 July 1, 2016 invoice, ICRWUA ensured that the Association was billed under the applicable tariff.
19 The result was an outstanding balance of \$54,172.02.

20 The Association further quotes portions of Decision No. 70977 wherein the Commission
21 expressed concern "about this Company's commitment to following the Commission's Orders and
22 rules."² Yet, on the face of the complaint the ICRWUA seeks only to bill the Association "under the
23 applicable tariff" (i.e., to follow A.A.C. R14-2-409.D.1) by correcting an inadvertent underbilling.

24 _____
25 ² ICRWUA's contracted manager had improperly implemented, (without approval of either the Commission of the
ICRWUA Board) a hydrant charge for water haulers and construction water; in an effort to discourage water theft, which
had been a problem. Decision No. 70977, Finding of Fact 46, pp. 15-16.

1 Importantly, the Association cites no law, rule or order that precludes ICRWUA from
2 correcting the billing error and charging the Association the tariffed rate for the water the Association
3 received. The Commission clearly knows how to impose a specific limit if it so desires. The
4 Association correctly notes that "[i]f this was a billing error involving electric service, the
5 Commission's rules would limit recovery of underbilling" citing A.A.C. R14-2-210(E)(3). The rules
6 governing water, sewer, gas and telephone service contain no such limitation for correcting an
7 underbilling due to a billing calculation. Thus, the Commission intended such a limitation to apply
8 only to electric service. *Expressio unius est exclusio alterius* -the expression of one thing is the
9 exclusion of the other. See Southwestern Iron & Steel Indus. v. State, 123 Ariz. 78, 79 (1979) (specific
10 inclusion in the administrative rules of the requirement that the \$25.00 filing fee be applied per claim
11 on Type A claim applications and its exclusion from the similar rules applying to Type B claims
12 implies that filing fees for Type B claims were to be on a per application basis); Bushnell v Superior
13 Court, 102 Ariz. 309, 311 (1967) (a listing of exceptions excludes others).

14 The Commission is obligated to evaluate the Associations allegations under its rules as they
15 currently exist. Ariz. Mun. Water Users Ass'n v. Ariz. Dept. of Water Res., 181 Ariz. 136, 141, (App.
16 1994) (ADWR must follow the adopted Second Management Plan in determining compliance with
17 conservation restrictions); McKesson Corp. v. Ariz. Health Care Cost Containment, 230 Ariz. 440, 444
18 ¶ 12 (App. 2012) (AHCCC could not pursue enforcement action beyond that permitted by its rules,
19 even if otherwise within its statutory powers). The Commission neither prohibits nor limits
20 ICRWUA's right to correct an underbilling due to a billing calculation error. Moreover, the
21 Commission requires ICRWUA to bill for all water at its Commission approved rates. See A.A.C.
22 R14-2-409.D.1. This is precisely what ICRWUA has done.

23 The Association has cited no law or rule that allows it to receive water at a rate different from
24 other customers in its class. As referenced above, the law is clear – all of ICRWUA's customers are
25 bound by the Commission approved rates. See A.R.S. §40-344.A (prohibiting a utility from granting

1 any preference or advantage to any person as to rates). ICRWUA is obligated to bill the Association at
2 those rates. *See* A.A.C. R14-2-409.D.1. The Association has no right to the relief requested – a
3 preferential water rate for a five-year period.

4 Moreover, relieving the Association of its obligation to pay the Commission approved rates
5 would constitute improper retroactive ratemaking for the benefit of a single customer. Retroactive
6 ratemaking occurs when the Commission requires refunds of an established, approved rate that is final.
7 *Pueblo Del Sol Water Co. v. Arizona Corp. Comm'n*, 160 Ariz. 285, 287, (App. 1988) *citing* *City of*
8 *Los Angeles v. Public Utilities Comm'n*, 7 Cal.3d 331, 102 Cal.Rptr. 313, 497 P.2d 785 (1972); *Pacific*
9 *Tel. and Tel. Co. v. Public Utilities Comm'n*, 62 Cal.2d 634, 44 Cal.Rptr. 1, 401 P.2d 353 (1965).

10 ICRWUA has billed the Association for water consumed at its Commission approved rates. If the bill
11 is reduced or eliminated, as requested by the Association, the Association will have received a
12 preferential discount. While this may not constitute a refund, it has the same impact on ICRWUA – it
13 will not receive and retain the revenues authorized by the Commission for the water delivered to the
14 Association.

15 There simply is no authority for the Commission to grant the relief requested by the
16 Association under any statement of the facts which is susceptible of proof under the claim as stated in
17 the complaint. The complaint must be dismissed for failure to state a claim for which relief may be
18 granted.

19 For the foregoing reasons, the Association's Complaint should be dismissed pursuant to Rule
20 12(b)(6) of the Arizona Rules of Civil Procedure.

21 **Alternative Motion to Stay**

22 In the event the Commission concludes it has concurrent jurisdiction with the superior court to
23 hear the complaint and that the Association has stated a claim for which relief might be granted under
24 some statement of the facts susceptible of proof, then ICRWUA respectfully requests the Commission
25 stay action on the complaint to afford the superior court to address the breach of contract claim.

1 ICRWUA pursued its remedy in the courts only after months of unsuccessfully seeking the
2 Association's agreement to pay for the water it received over a reasonable period of time. ICRWUA
3 had no ability to compel the Association to come before the Commission and filed an action in the
4 Yavapai County Superior Court. Only then did the Association file a complaint with the
5 Commission. While first to file is not necessarily determinative, it is a factor that weighs in favor of
6 allowing the superior court action to proceed to conclusion.

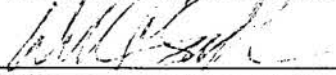
7 Another factor supporting a stay is the fact that this matter is fundamentally a breach of
8 contract action - the type of matter which, if not within the court's exclusive jurisdiction, is certainly
9 one well within the court's ability to process and to do so expeditiously.

10 A final, but important reason to stay the Commission action is the Commission's inability to
11 enter an enforceable money judgment against the Association. Rather, at most the Commission can
12 authorize ICRWUA to discontinue water service if the amount is not paid. ICRWUA has no desire to
13 terminate water service to the Association. ICRWUA seeks to be paid for the service it has provided
14 at the Commission authorized rate. ICRWUA also desires access to the post judgment enforcement
15 remedies only available with a court judgment, such as judgment liens, garnishment and attachment.
16 None of these remedies are available to enforce a Commission decision rendered in ICRWUA's favor.

17 For the foregoing reasons, ICRWUA respectfully requests, that if this action is not otherwise
18 dismissed, the Commission stay proceedings on the Association's Complaint and allow the parties to
19 resolve the matter before the Yavapai County Superior Court.

20 RESPECTFULLY SUBMITTED this 2nd day of December, 2016.

21
22 LAW OFFICES OF
23 WILLIAM P. SULLIVAN, PLLC

24 
25 William P. Sullivan, Esq.

501 E. Thomas Road

Phoenix, Arizona 85012

Attorneys for ICR WATER USERS ASSOCIATION

PROOF OF AND CERTIFICATE OF MAILING

I hereby certify that on this 2nd day of December, 2016, I caused the foregoing document to be served on the Arizona Corporation Commission by delivering the original and thirteen (13) copies of the above to:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

COPY of the foregoing emailed and mailed
this 2nd day of December, 2016, to:

Fennemore Craig
Patrick Black
2394 East Camelback Road
Suite 600
Phoenix, Arizona 85016-3429



2068-0100-0200\Pleadings\MTD ACC Complaint

EXHIBIT 1

ORIGINAL FILED IN
DAY OF
DONNA H. HARRIS
Clerk of Superior Court
By: W. P. Sullivan
Deputy

1 LAW OFFICES OF
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9 Attorneys for ICR WATER USERS ASSOCIATION

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

11 **IN AND FOR THE COUNTY OF YAVAPAI**

12 *1300* 201600805

13 ICR WATER USERS ASSOCIATION, an
14 Arizona non-profit corporation,

15 Plaintiff,

16 vs.

17 TALKING ROCK RANCH ASSOCIATION
18 FOR COMMUNITY PRESERVATION, an
19 Arizona non-profit corporation,

20 Defendant.

Case No.: _____

Division _____

COMPLAINT

(Breach of Contract)

21 Plaintiff alleges:

22 1. Plaintiff, ICR WATER USERS ASSOCIATION ("ICR"), is an Arizona non-profit
23 corporation organized and existing under the laws of the State of Arizona and doing business in
24 Yavapai County, Arizona.

25 2. Defendant, TALKING ROCK RANCH ASSOCIATION FOR COMMUNITY
PRESERVATION ("TRRA"), is an Arizona non-profit corporation organized and existing under
the laws of the State of Arizona and doing business in Yavapai County, Arizona.

3. All events relevant hereto took place in Yavapai County, Arizona. Jurisdiction and
venue are proper.

4. ICR provides water service within a portion of Yavapai County, Arizona pursuant to

1 a certificate of convenience and necessity granted by the Arizona Corporation Commission
2 ("Commission").

3 5. TRRA is a water customer of ICR.

4 6. As a water customer of ICR, TRRA has contractually agreed to pay for all water
5 received from ICR at the tariffed rate authorized by the Commission.

6 7. Due to a clerical error in preparing the billing statements sent to TRRA, TRRA was
7 under billed and underpaid for water service provided by ICR for the period between January 12,
8 2011 and January 17, 2016 in the cumulative amount of \$54,172, which amount includes \$3,300 in
9 associated taxes.

10 8. The quantity of water received by TRRA is undisputed.

11 9. The applicable approved tariffed rate for water received by TRRA is undisputed.

12 10. The amount under billed by ICR is undisputed.

13 11. Following discussions between ICR and TRRA and failed attempts by ICR to
14 establish a mutually agreeable payment schedule for the portion of the water received by TRRA but
15 not previously billed, ICR, on July 1, 2016 billed TRRA \$54,172 for water received by TRRA for
16 which TRRA had not previously paid. A true and correct copy of the billing statement is attached
17 hereto as Exhibit A and incorporated herein by this reference as if set forth in full.

18 12. The billed amount was due and payable within fifteen (15) days from July 1, 2016
19 and became delinquent as of July 18, 2016.

20 13. A late charge and/or deferred payment charge of 1.5% of the unpaid balance accrues
21 monthly.

22 14. TRRA's failure to pay and continued failure to pay is a breach of the contract
23 between ICR and TRRA.

24 15. ICR is entitled to payment by TRRA of the amount of \$54,172 for the water
25 delivered to TRRA, which amount includes \$3,300 in associated taxes.

1 16. ICR is entitled to payment of 1.5% per month of the unpaid amount until paid
2 commencing with July 18, 2016.

3 17. As this matter arises out of contract, ICR is entitled to an award of its attorneys' fees
4 pursuant to A.R.S. § 12-341.01.

5 18. ICR is also entitled to an award of its costs pursuant to A.R.S. § 12-341.

6 WHEREFORE, ICR WATER USERS ASSOCIATION requests judgment against
7 TALKING ROCK RANCH ASSOCIATION FOR COMMUNITY PRESERVATION as follows:

8 a. For damages in an amount of \$54,172, plus a late charge or deferred payment charge
9 of 1.5% of the unpaid balance per month commencing with July 18, 2016.

10 b. For court costs;

11 c. For attorneys' fees, which if judgment is taken by default or prior to a responsive
12 pleading being filed shall be limited to \$850.00; and

13 d. For such further relief as the Court deems just.

14 DATED this 27th day of October, 2016.

15 LAW OFFICES OF
16 WILLIAM P. SULLIVAN, PLLC


17 By: 
18 William P. Sullivan
19 501 E. Thomas Road
20 Phoenix, Arizona 85012
21
22
23
24
25
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EXHIBIT A

ICR Water Users Association

C/o Wallace & Associates

302 W. Willis Street, Suite 105 • Prescott, Arizona 86301
Phone (928) 445-6581 Fax (928) 445-1830

July 1, 2016

**Talking Rock – Landscape Meter
P.O. Box 10000
Prescott, AZ 86304**

Re: Account 9701001 – Billing for difference in Multiplier

Billing Period: January 12, 2011 to January 17, 2016

Water Charges	\$50,871.69
Gallon Tax	\$ 69.98
Sales Tax	<u>\$ 3,230.35</u>
Total Amount Due	\$54,172.02

*******A detailed breakdown of charges is attached *******

Acct 9701001 TRR POA Landscape Meter Three Forks/Johnny Mullins

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
	Read Date	Meter Charge	Reading	Actual Reading with 100 Multiplier	Usage gallons	Tier 1 0 to <= 72,000 g	Tier 2 Water >72,000 gallons	Water 5 Tier 1 + 2 See Note 1	ACC Tax on Water \$0.0065 /1000 g	Bill date	Water charges	Gallon Tax	Sales Tax See Note 3	Total Paid See Note 4	Under-Billing using Sales Tax @ 6.35% See Note 2
1															
2	01/12/2011		102,482	10,248,200		0	0								
3	02/15/2011	\$160.00	102,778	10,277,800	29,600	29,600	0	\$118.40	\$0.19	02/25/2011	161.18	0.00	11.85	\$172.03	\$124.86
4	03/15/2011	\$160.00	102,778	10,277,800	0	0	0	\$0.00	\$0.00	03/28/2011	160.00	0.00	11.76	\$171.76	\$0.00
5	04/14/2011	\$160.00	103,649	10,364,900	87,100	72,000	15,100	\$363.50	\$0.57	04/26/2011	163.48	0.01	12.02	\$175.51	\$383.44
6	05/16/2011	\$160.00	105,602	10,560,200	195,300	72,000	123,300	\$904.50	\$1.27	05/26/2011	167.81	0.01	12.31	\$180.13	\$954.89
7	06/15/2011	\$160.00	108,135	10,813,500	263,300	72,000	191,300	\$1,244.50	\$1.71	06/24/2011	170.51	0.02	12.51	\$183.03	\$1,314.07
8	07/14/2011	\$160.00	110,875	11,087,500	264,000	72,000	192,000	\$1,248.00	\$1.72	07/27/2011	170.56	0.02	12.54	\$183.12	\$1,317.71
9	08/15/2011	\$160.00	113,833	11,383,300	295,800	72,000	223,800	\$1,407.00	\$1.92	08/26/2011	171.83	0.02	12.62	\$184.45	\$1,485.67
10	09/15/2011	\$160.00	115,732	11,573,200	189,900	72,000	117,900	\$877.50	\$1.23	09/26/2011	167.60	0.01	12.32	\$179.92	\$926.36
11	10/17/2011	\$160.00	117,685	11,768,500	195,900	72,000	123,900	\$904.50	\$1.27	10/26/2011	167.81	0.01	12.31	\$179.12	\$954.89
12	11/16/2011	\$160.00	118,340	11,834,000	65,500	65,500	0	\$102.00	\$0.43	11/28/2011	163.62	0.00	11.95	\$175.57	\$176.28
13	12/17/2011	\$160.00	118,340	11,834,000	0	0	0	\$0.00	\$0.00	12/26/2011	160.00	0.00	11.76	\$171.76	\$0.00
14	01/15/2012	\$160.00	118,593	11,859,300	25,300	25,300	0	\$101.20	\$0.16	01/22/2012	160.00	0.00	11.76	\$171.76	\$107.79
15	02/15/2012	\$160.00	118,847	11,884,700	25,400	25,400	0	\$101.60	\$0.17	02/27/2012	160.62	0.00	11.76	\$172.38	\$108.20
16	03/15/2012	\$160.00	119,100	11,910,000	25,300	25,300	0	\$101.20	\$0.16	03/25/2012	161.01	0.00	11.82	\$172.82	\$106.72
17	04/17/2012	\$160.00	119,943	11,994,300	84,300	72,000	12,300	\$349.50	\$0.55	04/27/2012	163.27	0.01	12.01	\$175.29	\$368.65
18	05/16/2012	\$160.00	121,076	12,107,600	113,300	72,000	41,300	\$494.50	\$0.74	05/23/2012	164.53	0.01	12.09	\$176.62	\$521.81
19	06/17/2012	\$160.00	123,084	12,308,400	200,800	72,000	128,800	\$932.00	\$1.31	06/25/2012	165.03	0.01	12.43	\$180.29	\$983.94
20	07/17/2012	\$160.00	125,674	12,567,400	279,000	72,000	207,000	\$1,323.00	\$1.81	07/22/2012	171.16	0.02	12.55	\$183.76	\$1,396.94
21	08/15/2012	\$160.00	128,238	12,823,800	236,400	72,000	164,400	\$1,110.00	\$1.54	08/27/2012	169.46	0.02	12.46	\$181.92	\$1,171.94
22	09/18/2012	\$160.00	130,289	13,028,900	205,100	72,000	133,100	\$953.50	\$1.33	09/26/2012	169.20	0.01	12.36	\$180.57	\$1,006.65
23	10/16/2012	\$160.00	132,147	13,214,700	185,800	72,000	113,800	\$857.00	\$1.21	10/26/2012	167.41	0.01	12.31	\$179.72	\$904.72
24	11/14/2012	\$160.00	134,088	13,408,800	194,100	72,000	122,100	\$889.50	\$1.26	11/26/2012	167.76	0.01	12.33	\$180.10	\$948.55
25	12/15/2012	\$160.00	134,088	13,408,800	0	0	0	\$0.00	\$0.00	12/26/2012	160.00	0.00	11.76	\$171.76	\$0.00
26	01/16/2013	\$160.00	134,088	13,408,800	0	0	0	\$0.00	\$0.00	01/28/2013	160.00	0.00	11.76	\$171.76	\$0.00
27	02/16/2013	\$160.00	134,088	13,408,800	0	0	0	\$0.00	\$0.00	02/27/2013	160.00	0.00	11.76	\$171.76	\$0.00
28	03/14/2013	\$160.00	134,088	13,408,800	0	0	0	\$0.00	\$0.00	03/26/2013	160.00	0.00	11.76	\$171.76	\$0.00
29	04/17/2013	\$160.00	135,272	13,527,200	118,400	72,000	46,400	\$520.00	\$0.77	04/26/2013	164.74	0.01	12.11	\$176.86	\$548.74
30	05/17/2013	\$160.00	138,250	13,825,000	297,800	72,000	225,800	\$1,417.00	\$1.94	05/28/2013	171.91	0.02	12.64	\$184.57	\$1,496.23
31	06/14/2013	\$160.00	141,618	14,161,800	336,800	72,000	264,800	\$1,612.00	\$2.19	06/26/2013	173.47	0.02	12.75	\$186.22	\$1,702.21
32	07/17/2013	\$160.00	145,643	14,564,300	402,500	72,000	330,500	\$1,940.50	\$2.62	07/26/2013	176.10	0.03	13.18	\$189.28	\$2,049.19
33	08/16/2013	\$160.00	149,468	14,946,800	382,500	72,000	310,500	\$1,840.50	\$2.49	08/26/2013	174.20	0.02	13.12	\$186.32	\$1,943.57
34	09/14/2013	\$160.00	151,927	15,192,700	245,900	72,000	173,900	\$1,157.50	\$1.60	09/27/2013	169.84	0.02	12.78	\$180.64	\$1,222.11
35	10/17/2013	\$160.00	155,393	15,539,300	346,600	72,000	274,600	\$1,661.00	\$2.25	10/28/2013	173.86	0.02	13.04	\$184.92	\$1,753.97
36	11/15/2013	\$160.00	157,649	15,764,900	225,600	72,000	153,600	\$1,056.00	\$1.47	11/26/2013	169.02	0.01	12.71	\$179.76	\$1,114.92
37	12/17/2013	\$160.00	157,649	15,764,900	0	0	0	\$0.00	\$0.00	12/26/2013	160.00	0.00	11.76	\$171.76	\$0.00
38	01/19/2014	\$160.00	157,649	15,764,900	0	0	0	\$0.00	\$0.00	01/26/2014	160.00	0.00	11.76	\$171.76	\$0.00
39	02/18/2014	\$160.00	157,649	15,764,900	0	0	0	\$0.00	\$0.00	02/26/2014	160.00	0.00	11.76	\$171.76	\$0.00
40	03/19/2014	\$160.00	157,825	15,782,500	17,600	17,600	0	\$70.40	\$0.11	03/26/2014	160.70	0.00	11.76	\$172.46	\$74.24
41	04/17/2014	\$160.00	163,166	16,316,600	534,100	72,000	462,100	\$2,598.50	\$3.47	04/26/2014	161.16	0.03	13.32	\$192.91	\$2,744.13
42	05/16/2014	\$160.00	166,482	16,648,200	331,600	72,000	259,600	\$1,586.00	\$2.16	05/27/2014	173.26	0.02	13.09	\$184.35	\$1,674.74
43	06/18/2014	\$160.00	170,500	17,050,000	401,800	72,000	329,800	\$1,937.00	\$2.61	06/25/2014	176.07	0.03	13.38	\$187.28	\$2,045.49
44	07/17/2014	\$160.00	174,178	17,417,800	367,800	72,000	295,800	\$1,767.00	\$2.39	07/27/2014	174.71	0.02	13.09	\$185.82	\$1,855.93
45	08/19/2014	\$160.00	175,595	17,559,500	141,700	72,000	69,700	\$636.50	\$0.92	08/26/2014	165.67	0.01	12.81	\$176.20	\$671.80
46	09/16/2014	\$160.00	180,387	18,038,700	480,200	72,000	408,200	\$2,329.00	\$3.12	09/26/2014	179.21	0.03	13.35	\$190.62	\$2,459.55
47	10/17/2014	\$160.00	184,272	18,427,200	387,500	72,000	315,500	\$1,865.50	\$2.52	10/26/2014	175.50	0.03	13.11	\$186.67	\$1,969.96
48	11/18/2014	\$160.00	186,731	18,673,100	245,900	72,000	173,900	\$1,157.50	\$1.60	11/26/2014	169.84	0.02	12.78	\$180.64	\$1,222.11
49	12/16/2014	\$160.00	187,295	18,729,500	56,400	56,400	0	\$225.60	\$0.37	12/26/2014	162.26	0.00	11.80	\$172.46	\$237.89
50	01/16/2015	\$160.00	187,295	18,729,500	0	0	0	\$0.00	\$0.00	01/26/2015	160.00	0.00	11.76	\$171.76	\$0.00
51	02/18/2015	\$160.00	187,295	18,729,500	0	0	0	\$0.00	\$0.00	02/26/2015	160.00	0.00	11.76	\$171.76	\$0.00
52	03/21/2015	\$160.00	187,295	18,729,500	0	0	0	\$0.00	\$0.00	03/26/2015	160.00	0.00	11.76	\$171.76	\$0.00
53	04/18/2015	\$160.00	190,181	19,018,100	288,600	72,000	216,600	\$1,371.00	\$1.88	04/27/2015	171.54	0.02	13.09	\$182.45	\$1,447.64
54	05/19/2015	\$160.00	193,595	19,359,500	341,400	72,000	269,400	\$1,635.00	\$2.22	05/26/2015	173.66	0.02	13.01	\$184.71	\$1,726.49
55	06/16/2015	\$160.00	197,035	19,703,500	344,000	72,000	272,000	\$1,648.00	\$2.24	06/24/2015	173.76	0.02	13.01	\$184.81	\$1,740.23
56	07/17/2015	\$160.00	201,723	20,172,300	468,800	72,000	396,800	\$2,272.00	\$3.05	07/27/2015	178.75	0.03	13.35	\$188.11	\$2,399.35
57	08/18/2015	\$160.00	204,321	20,432,100	259,800	72,000	187,800	\$1,227.00	\$1.69	08/26/2015	170.20	0.02	12.82	\$181.22	\$1,295.53
58	09/16/2015	\$160.00	207,278	20,727,800	295,700	72,000	223,700	\$1,406.50	\$1.92	09/26/2015	171.81	0.02	13.01	\$182.76	\$1,485.13
59	10/16/2015	\$160.00	210,486	21,048,600	320,800	72,000	248,800	\$1,532.00	\$2.09	10/26/2015	173.83	0.02	13.02	\$183.82	\$1,617.70
60	11/18/2015	\$160.00	211,195	21,119,500	70,900	70,900	0	\$283.60	\$0.48	11/26/2015	162.84	0.00	11.76	\$171.76	\$299.05
61	12/17/2015	\$160.00	211,195	21,119,500	0	0	0	\$0.00	\$0.00	12/26/2015	160.00	0.00	11.76	\$171.76	\$0.00
62	01/17/2016	\$160.00	211,195	21,119,500	0	0	0	\$0.00	\$0.00	01/26/2016	160.00	0.00	11.76	\$171.76	\$0.00
63														Total Under-Billing	\$54,172.02
64															
65															
66															
67															
68															

Note 1- June 2009 Tariff for 2" Meter: First 72,000 g \$4/1000 g; Above 72,000 g \$5/1000 g; Meter Charge \$160

Note 2- Under-Billing = (Meter Charge + Water 5 - Water charge) * 1.0635 + (ACC Tax - Gallon Tax)

Note 3- Sales Tax in 2011, 2012 & 2013 was 7.35%. Sales Tax in 2014, 2015 & 2016 is 6.35%.

Note 4- Columns J, K, L, M & N represent the Original Billing to TRR POA.